A TREATISE ON THE CONFLICT OF LAWS OR PRIVATE INTERNATIONAL LAW, by Francis Wharton, LL.D. Third edition by George H. Parmele, of the Publisher's Editorial Staff. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co. 1905. Vol I, ccxxiv, 848; vol. II, xxviii, 1830.

We have here, as is indicated by the title, what purports to be a new edition of a well-known work, by a new editor. In reality, the work of the original author appears to be relegated to a secondary place. The second edition of Wharton's treatise was published in 1881, and comprised 847 pages, of which 40 pages were devoted to a table of cases, printed in double columns, and 53 pages to an index. In the present edition, 160 pages are devoted to the table of cases, which, apart from the addition of new decisions, is physically expanded by being printed across the whole page, while 130 pages are devoted to a very full index. The text proper is almost or quite twice as great in bulk as that of the second edition, and the seat of honor is given to the new matter by printing the new text as well as the new notes in a more conspicuous form by means of additional space between the lines. But it is to be observed that the new matter chiefly consists of summaries of recent American and English cases, with a discussion of some of the doctrinal questions involved. Wharton, in his second and last edition of his work, laid special stress upon the element of comparative jurisprudence, testing the rules laid down in the American decisions by the contemporaneous conclusions reached in England, France, Belgium, Switzerland, Germany and Italy. The continuation of this important branch—indeed we may say of this most important branch—of his work is not attempted in the present edition, to which we shall not do scant justice if we say that it is on the whole neither better nor worse than most of the books which have become current at the bar since the writing of legal works came to be systematically commercialized. The American bar is now sorely afflicted with a promiscuous inundation of judicial decisions, good, bad, and indifferent, and with an active output of text-books in which those decisions are comprehensively and more or less indiscriminately digested. Such works are doubtless useful to the active practitioner, who demands the latest decision on the particular question before him, and gives it a conspicuous place in his brief, without regard as to the quality of the decision, the character of the court by which it was rendered, or its soundness from the point of view of legal doctrine. In no department of the law has the vague and confused use of cases been more conspicuous during the past twenty years, at any rate in the United States, than in that of the conflict of laws or private international law. The task of the present editor of Wharton's work has no doubt been rendered much more difficult by reason of these conditions, the existence of which is clearly traceable in his text. In numerous instances he has sought to bring the variant decisions to the test of legal theory, but the effort is by no means always successful. Take, for example, his discussions of the subject of jurisdiction in respect of actions for tort; or his discussion of the subject of the construction of wills. "When," he says, "the language of the will is complete, specific, and self-explanatory, there is no occasion to resort to the law of any jurisdiction

to ascertain that [the testator's] intention, and therefore no occasion to choose between conflicting laws." (§599a.) These and other phrases used in the same place seem to suggest the idea that a question of conflict of laws, so called, arises only where a testator has failed to express himself with clearness. But it is obvious that a difficulty may arise not by reason of any lack of clearness in the testator's words, but by reason of a question as to the law by which they are to be construed and enforced. The sentence just quoted illustrates a want of scientific lucidity which is to a certain extent inevitable in work performed under the limitations to which that of the present editor evidently was subject. It may be observed that he has in certain places elaborately controverted positions taken in the brief elementary volume on the conflict of laws by Professor Minor, but that he cites, it is believed, only once the full and admirable work of Dicey, with which some of his forms of expression, as in his treatment of the subject of contracts, show that he possesses a wider acquaintance than the citation in question would indicate.

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